

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 KEVIN M. YOUNG,

11 Plaintiff,

12 v.

13 WELLS FARGO BANK, N.A., et al.,

14 Defendants.

CASE NO. C12-0318-JCC

ORDER OF DISMISSAL WITH
PREJUDICE

15 This matter comes before the Court *sua sponte*. On April 24, 2012, the Court issued an
16 Order To Show Cause why this case should not be dismissed pursuant to the doctrine of *res*
17 *judicata*. (Dkt. No. 7.) The Court ordered Plaintiff to respond by May 1, 2012. On April 25,
18 2012, Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) moved for an order granting summary
19 judgment to dismiss Plaintiff’s action because it is barred by the doctrine of *res judicata*. (Dkt.
20 No. 8.) On April 30, 2012, Plaintiff filed a notice of voluntary dismissal without prejudice,
21 asserting that voluntary dismissal without court order is proper since “notice of dismissal is being
22 filed with the Court before service by Defendants of either an answer or motion for summary
23 judgment.” (Dkt. No. 11.)

24 The Court finds as follows:

25 1. Plaintiff is not entitled to dismiss this action without a court order since Defendant
26 Wells Fargo filed a motion for summary judgment prior to Plaintiff’s notice of

1 voluntary dismissal. *See* Fed. R. Civ. P. 41.

2 2. Plaintiff has not timely responded to the Court's Order To Show Cause why this case

3 should not be dismissed pursuant to the doctrine of *res judicata*. "Res judicata, or

4 claim preclusion, prohibits lawsuits on 'any claims that were raised or could have

5 been raised' in a prior action." *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir.

6 2002). The doctrine of res judicata applies where an earlier suit (1) involved the same

7 claim or cause of action; (2) reached a final judgment on the merits; and (3) involved

8 the same parties. *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir.

9 2005).

10 3. In the present suit, Plaintiff seeks to quiet title to a property located 11607 72nd Place

11 Northeast, Kirkland, Washington 98034.

12 4. Plaintiff has already litigated a suit in federal court to quiet title to a property located

13 at 11607 72nd Place Northeast, Kirkland, Washington 98034. *See Young v. Wachovia*

14 *Mortgage FSB*, Case No. C11-0552-JCC.

15 5. Plaintiff's prior suit was dismissed with prejudice on July 22, 2011.

16 6. Plaintiff's prior suit involved the same parties.

17 In light of the above, the Court hereby DISMISSES WITH PREJUDICE the present

18 action. Wells Fargo's motion for summary judgment (Dkt. No. 8) is DENIED as moot.

19 DATED this 3rd day of May 2012.



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21 John C. Coughenour
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23 UNITED STATES DISTRICT JUDGE
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